

# EXHIBIT 3

Oliver Simmonds Deposition

In The Matter Of:  
***Glover vs. City Of Atlanta***

Deposition Of:  
***Oliver Simmonds***

Taken On:  
***7/13/2022***

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<p style="text-align: right;">Page 13</p> <p>1 interactions with the mayor?</p> <p>2 <b>A. Say that again.</b></p> <p>3 Q. Did you have regular interactions with the</p> <p>4 mayor?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Did you talk to her -- was it -- who --</p> <p>7 let's back up.</p> <p>8 Who was the mayor while you were in the EPU?</p> <p>9 <b>A. Keisha Lance Bottoms.</b></p> <p>10 Q. Was that for your entire six years in the</p> <p>11 EPU?</p> <p>12 <b>A. No. The first one was Kasim Reed.</b></p> <p>13 Q. Okay. Did the mayor ever give you</p> <p>14 instructions while you were on the job?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Let's talk about the day of the</p> <p>17 incident. When did you start work on January 15,</p> <p>18 2019?</p> <p>19 <b>A. What time?</b></p> <p>20 Q. Yes.</p> <p>21 <b>A. 2 p.m.</b></p> <p>22 Q. Walk me through your shift. What was going</p> <p>23 on that day?</p> <p>24 <b>A. The mayor wasn't in office, and we were just</b></p> <p>25 <b>at the office.</b></p>	<p style="text-align: right;">Page 15</p> <p>1 <b>machine. I start pumping the gas.</b></p> <p>2 <b>After I finished pumping the gas, closed it</b></p> <p>3 <b>back. Go to enter the vehicle. Open the door.</b></p> <p>4 <b>Someone was -- somebody was inside, inside the car.</b></p> <p>5 <b>When I went to enter, the person start pushing me out</b></p> <p>6 <b>of the car, and a little struggle ensued. And then</b></p> <p>7 <b>they pull off.</b></p> <p>8 <b>The door of the thing -- when they pull out,</b></p> <p>9 <b>the door was still open. So I held onto the door.</b></p> <p>10 <b>And I realized it was about to make a U-turn on</b></p> <p>11 <b>Whitehall -- to speed up to go down Whitehall Avenue</b></p> <p>12 <b>into Zone 3.</b></p> <p>13 <b>So at that point, the door closes. I'm not</b></p> <p>14 <b>sure how it closed. And part of my jacket was stuck</b></p> <p>15 <b>to the car. When I realized that he was about to turn</b></p> <p>16 <b>to go on Whitehall and to increase speed, I drew my</b></p> <p>17 <b>pistol and I fired while tugging onto my jacket. Then</b></p> <p>18 <b>I got released from the car.</b></p> <p>19 <b>My -- in the process at some point the</b></p> <p>20 <b>vehicle run over my foot. So when I -- when I got</b></p> <p>21 <b>released from the car, I fell onto the side of the</b></p> <p>22 <b>street trying to call -- get on my radio, trying to</b></p> <p>23 <b>call dispatch to tell them exactly what happened.</b></p> <p>24 <b>Then the car apparently crashes.</b></p> <p>25 Q. Okay. Let me ask a few follow-ups on this.</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. When did your shift end?</p> <p>2 <b>A. It was supposed to be at 10:00.</b></p> <p>3 Q. What time did you leave city hall?</p> <p>4 <b>A. I can't recall. Sometime after I got there.</b></p> <p>5 <b>I can't recall.</b></p> <p>6 Q. Where did you go?</p> <p>7 <b>A. I go to the T.J. Maxx on Howell Mill Road.</b></p> <p>8 Q. Where did you go after the T.J. Maxx?</p> <p>9 <b>A. To a gas station.</b></p> <p>10 Q. And that's the Shell station at Whitehall</p> <p>11 and McDaniel?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. Okay. Were you familiar with that area?</p> <p>14 <b>A. Not really. Just driving past there. Not</b></p> <p>15 <b>really familiar.</b></p> <p>16 Q. Had you been to that gas station before?</p> <p>17 <b>A. I can't recall.</b></p> <p>18 Q. What time did you get there?</p> <p>19 <b>A. I can't recall also.</b></p> <p>20 Q. Describe for me in as much detail as you can</p> <p>21 what happened at this gas station.</p> <p>22 <b>A. Okay. Got out of the car to pump gas.</b></p> <p>23 <b>Retrieved the -- when I go open the -- we use gas</b></p> <p>24 <b>cards. So go retrieve the gas card from the -- from</b></p> <p>25 <b>the -- from the car, place it in the -- in the</b></p>	<p style="text-align: right;">Page 16</p> <p>1 How long was your jacket stuck in the car door?</p> <p>2 <b>A. I don't know. It happened so fast. I</b></p> <p>3 <b>wasn't -- I can't tell.</b></p> <p>4 Q. Roughly, how much distance did you and the</p> <p>5 car cover while your jacket was stuck in the door?</p> <p>6 <b>A. I don't know.</b></p> <p>7 Q. When you were pulling on the door, did you</p> <p>8 step into the car?</p> <p>9 <b>A. At the -- at the -- at the pump? I tried to</b></p> <p>10 <b>step in the car at the pump.</b></p> <p>11 Q. And did you grab the steering wheel when you</p> <p>12 reached into the car?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. From the time your -- you realized that your</p> <p>15 jacket was stuck in the door, how much time passed</p> <p>16 before you fired your gun?</p> <p>17 <b>A. As I said, I can't recall. The time go by</b></p> <p>18 <b>fast. It seemed like an eternity, but I can't put a</b></p> <p>19 <b>time on it. I don't know.</b></p> <p>20 Q. Can you say was it, you know, 30 seconds or</p> <p>21 2 seconds?</p> <p>22 MS. BENSON: Object to form. Asked and</p> <p>23 answered.</p> <p>24 <b>A. I don't know.</b></p> <p>25</p>

<p>Page 17</p> <p>1 BY MR. FREDRICKSON:</p> <p>2 Q. Where exactly were you when you fired?</p> <p>3 <b>A. In terms of -- I was outside the car.</b></p> <p>4 Q. Were you on the gas station property?</p> <p>5 <b>A. No. I don't -- I don't know.</b></p> <p>6 Q. Where was the --</p> <p>7 <b>A. But the --</b></p> <p>8 Q. -- car?</p> <p>9 <b>A. -- car -- the car was driving. So as soon</b></p> <p>10 <b>as it was in the process of making a turn to go down</b></p> <p>11 <b>Whitehall Avenue.</b></p> <p>12 Q. So the car was in the process of making a</p> <p>13 U-turn when you fired?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. So it was not yet on Whitehall Avenue?</p> <p>16 <b>A. I'm not sure.</b></p> <p>17 Q. Which way was the car facing?</p> <p>18 <b>A. When I shot?</b></p> <p>19 Q. Yes.</p> <p>20 <b>A. It was turning. So when I parked, the car</b></p> <p>21 <b>was facing towards the city of Atlanta. So it was</b></p> <p>22 <b>going towards the opposite direction.</b></p> <p>23 Q. Was it -- I understand it was in the process</p> <p>24 of turning, but at the time that you fired, was it</p> <p>25 perpendicular to Whitehall or was it on Whitehall</p>	<p>Page 19</p> <p>1 <b>A. No.</b></p> <p>2 MR. FREDRICKSON: Let's mark this Exhibit 1,</p> <p>3 if we can. Or I'm happy to if you want.</p> <p>4 (Exhibit 1 marked.)</p> <p>5 BY MR. FREDRICKSON:</p> <p>6 Q. Okay. Officer Simmonds, I'm going to hand</p> <p>7 you what we just marked Exhibit 1. Are you familiar</p> <p>8 with the APD's policies regarding use of force?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Are you familiar with this particular</p> <p>11 document?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. What is it?</p> <p>14 <b>A. The SOP on use of force.</b></p> <p>15 Q. Did you fully comply with these policies</p> <p>16 when you shot D'Ettrick Griffin?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Did you violate any APD policy in any way</p> <p>19 when you shot D'Ettrick Griffin?</p> <p>20 <b>A. No.</b></p> <p>21 Q. When D'Ettrick started to drive away and you</p> <p>22 grabbed the door handle, what were you trying to</p> <p>23 accomplish?</p> <p>24 <b>A. I was trying to retrieve possession of the</b></p> <p>25 <b>car.</b></p>
<p>Page 18</p> <p>1 parallel with the street?</p> <p>2 <b>A. It wasn't parallel. It was -- it was making</b></p> <p>3 <b>a turn; so it couldn't be parallel.</b></p> <p>4 Q. Why did you determine it was necessary to</p> <p>5 fire your gun?</p> <p>6 <b>A. I feared for my life or severely injured.</b></p> <p>7 Q. And why did you fear for your life?</p> <p>8 <b>A. Because I was stuck to the car and it was in</b></p> <p>9 <b>motion and it was about to speed up.</b></p> <p>10 Q. Where did you aim?</p> <p>11 <b>A. I didn't get a chance to aim. I just pulled</b></p> <p>12 <b>my gun and fired inside the car to stop him.</b></p> <p>13 Q. When you fired, were you holding the gun in</p> <p>14 both hands?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Which hand were you holding it in?</p> <p>17 <b>A. My right hand.</b></p> <p>18 Q. You're right-handed?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. When you got out of the car to start pumping</p> <p>21 gas, did you leave the car unlocked?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Did you leave the car running?</p> <p>24 <b>A. I can't -- I can't -- I can't recall that.</b></p> <p>25 Q. Did you leave the door open?</p>	<p>Page 20</p> <p>1 Q. I'm sorry. Say that again.</p> <p>2 <b>A. I was trying to retrieve possession of the</b></p> <p>3 <b>car.</b></p> <p>4 Q. What do you mean by that?</p> <p>5 <b>A. Get the car back.</b></p> <p>6 Q. When you grabbed the steering wheel of the</p> <p>7 car, why did you do that?</p> <p>8 <b>A. Because I didn't know anyone was in the car.</b></p> <p>9 <b>I was -- I was about to go inside the car.</b></p> <p>10 Q. At the time that you grabbed the steering</p> <p>11 wheel of the car, you didn't know that anyone else was</p> <p>12 in there?</p> <p>13 <b>A. No.</b></p> <p>14 Q. Okay. At what point did you realize someone</p> <p>15 else was in the car?</p> <p>16 <b>A. When he started shouting.</b></p> <p>17 Q. What did he say to you?</p> <p>18 <b>A. I can't -- I can't recall.</b></p> <p>19 Q. Did you say anything to him?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Did you see D'Ettrick's hands on the</p> <p>22 steering wheel?</p> <p>23 <b>A. I think -- the car was dark, but he was --</b></p> <p>24 <b>he was inside the car. It happened so fast. I don't</b></p> <p>25 <b>know.</b></p>

<p>Page 29</p> <p>1 <b>issued and put it in there.</b></p> <p>2 Q. You said there's a saying never carry an</p> <p>3 empty gun?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Is that a policy from the APD?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Like, where would one hear that saying?</p> <p>8 <b>A. Just a saying.</b></p> <p>9 Q. Okay. Is it unique to law enforcement?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. When you took rounds from your Glock 17 to</p> <p>12 put in the Glock 43, how many rounds did you put in</p> <p>13 the 43?</p> <p>14 <b>A. I can't remember.</b></p> <p>15 Q. If the APD had a policy that forbid officers</p> <p>16 from firing in moving vehicles except in cases of</p> <p>17 terrorism, would you comply with that policy?</p> <p>18 MS. BENSON: Object to --</p> <p>19 MR. CUNNINGHAM: Objection --</p> <p>20 MS. BENSON: -- form.</p> <p>21 MR. CUNNINGHAM: -- to form. Speculative.</p> <p>22 It --</p> <p>23 MR. FREDRICKSON: Let's not -- object to</p> <p>24 form is good.</p> <p>25 MR. CUNNINGHAM: I mean, an objection to the</p>	<p>Page 31</p> <p>1 MR. FREDRICKSON: That is a speaking</p> <p>2 objection. That's what that means.</p> <p>3 MR. CUNNINGHAM: All right. We can agree to</p> <p>4 disagree. But I think a speaking objection would be</p> <p>5 more than just saying object to form and that it is</p> <p>6 speculative and it's an improper hypothetical.</p> <p>7 MR. FREDRICKSON: Okay. Well, we do</p> <p>8 disagree, but hopefully it won't be an issue.</p> <p>9 Can we read the last question back.</p> <p>10 Okay. I got it. I can do it.</p> <p>11 BY MR. FREDRICKSON:</p> <p>12 Q. Officer Simmonds, if the APD had a policy</p> <p>13 that forbid officers from firing in moving vehicles</p> <p>14 except in cases of terrorism, would you comply with</p> <p>15 that policy?</p> <p>16 MS. BENSON: Same --</p> <p>17 MR. CUNNINGHAM: Objection --</p> <p>18 MS. BENSON: -- objection.</p> <p>19 MR. CUNNINGHAM: -- noted.</p> <p>20 BY MR. FREDRICKSON:</p> <p>21 Q. You can answer.</p> <p>22 <b>A. Yes, I would. I would.</b></p> <p>23 Q. If the APD had a policy forbidding officers</p> <p>24 from in any way pursuing suspects fleeing in vehicles,</p> <p>25 would you comply with that policy?</p>
<p>Page 30</p> <p>1 form isn't limited to -- I can -- I have a duty to</p> <p>2 inform you why your question is bad so you can --</p> <p>3 MR. FREDRICKSON: No. No, you don't.</p> <p>4 MR. CUNNINGHAM: -- potentially try to cure</p> <p>5 the question.</p> <p>6 MR. FREDRICKSON: No. If you object to</p> <p>7 form, all form objections are covered. It's reserved.</p> <p>8 You don't need to -- you don't need to say anything</p> <p>9 else.</p> <p>10 MR. CUNNINGHAM: I think Judge Batten -- I</p> <p>11 know we're not in front of him, but he would severely</p> <p>12 disagree with that.</p> <p>13 MR. FREDRICKSON: Well, it's in the court's</p> <p>14 standing order, if you want to review it.</p> <p>15 MR. CUNNINGHAM: I reviewed it this morning.</p> <p>16 I don't think it's in the standing order.</p> <p>17 MR. FREDRICKSON: Do you want me to get it</p> <p>18 out?</p> <p>19 MR. CUNNINGHAM: I'll pull it up right now.</p> <p>20 MR. FREDRICKSON: Page 17, speaking</p> <p>21 objections and other tactics for coaching the witness</p> <p>22 during the deposition are not permissible.</p> <p>23 MR. CUNNINGHAM: That's not a speaking</p> <p>24 objection. I'm telling you the basis for my</p> <p>25 objection.</p>	<p>Page 32</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. If the APD had a policy that required you to</p> <p>3 warn a suspect prior to firing your gun, would you</p> <p>4 comply with that policy?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. What is the APD's vehicle pursuit policy?</p> <p>7 <b>A. Pursuit policy? A person should be -- first</b></p> <p>8 <b>of all, the severity of the crime. You're talking</b></p> <p>9 <b>about vehicle pursuit?</b></p> <p>10 Q. Yes.</p> <p>11 <b>A. The severity of the crime. And if it's a</b></p> <p>12 <b>felony, the supervisor would allow the person to</b></p> <p>13 <b>pursue that vehicle. The supervisor have the right to</b></p> <p>14 <b>Code 4, cancel pursuit, or give permission for an</b></p> <p>15 <b>officer to pursue a vehicle.</b></p> <p>16 Q. What does "Code 4" mean?</p> <p>17 <b>A. Cancel.</b></p> <p>18 Q. What is APD's policy regarding firing a gun</p> <p>19 at moving vehicles?</p> <p>20 <b>A. It's prohibited.</b></p> <p>21 Q. Is that a written policy?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. Was that a policy in effect on January 15,</p> <p>24 2019?</p> <p>25 <b>A. That's totally different. I was stuck to</b></p>

<p style="text-align: right;">Page 33</p> <p>1 <b>the car.</b></p> <p>2 Q. Well, I'm not asking about whether you were</p> <p>3 stuck to the car, though.</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Was there a policy forbidding officers from</p> <p>6 firing at moving vehicles?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Where would you find that policy?</p> <p>9 <b>A. APD SOPs.</b></p> <p>10 Q. Are there exceptions to the policy?</p> <p>11 <b>A. I can't recall.</b></p> <p>12 Q. Is it in Exhibit 1, the use of force SOP?</p> <p>13 <b>A. I'm not -- I'm not sure.</b></p> <p>14 Q. Could you take a look at that SOP and tell</p> <p>15 me if it's in there.</p> <p>16 <b>A. I don't -- no, I don't see it. I don't see</b></p> <p>17 <b>it.</b></p> <p>18 Q. Okay. How did you come to learn of the</p> <p>19 policy against firing in moving vehicles?</p> <p>20 <b>A. In service training.</b></p> <p>21 Q. How long after firing did your jacket free</p> <p>22 from the door?</p> <p>23 <b>A. Seconds after. I can't give a -- I can't</b></p> <p>24 <b>give a precise time.</b></p> <p>25 Q. After you fired at the car, it didn't stop;</p>	<p style="text-align: right;">Page 35</p> <p>1 <b>person compliant.</b></p> <p>2 Q. Subjective fear is not sufficient to justify</p> <p>3 the use of force; right?</p> <p>4 MR. CUNNINGHAM: Object to the form.</p> <p>5 MS. BENSON: Yeah. Objection. I didn't</p> <p>6 really understand the question, but object to form.</p> <p>7 <b>A. Say that again.</b></p> <p>8 BY MR. FREDRICKSON:</p> <p>9 Q. Subjective fear is not sufficient to justify</p> <p>10 the use of force; correct?</p> <p>11 <b>A. Could you rephrase it? I don't understand</b></p> <p>12 <b>the question.</b></p> <p>13 Q. Well, let's back up. What types of</p> <p>14 circumstances justify the use of force?</p> <p>15 <b>A. It could be a lot of stuff. It could be try</b></p> <p>16 <b>to arrest a person. It could -- it could be -- it</b></p> <p>17 <b>could be so much. You just got to determine exactly</b></p> <p>18 <b>what you want.</b></p> <p>19 Q. Do you know what "subjective" means?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Do you know what "objective" means?</p> <p>22 <b>A. No.</b></p> <p>23 Q. Okay. Subjective fear would be fear that</p> <p>24 you personally feel but that someone else in the same</p> <p>25 situation may not necessarily feel.</p>
<p style="text-align: right;">Page 34</p> <p>1 correct?</p> <p>2 <b>A. No.</b></p> <p>3 Q. So did firing at the car make any difference</p> <p>4 on whether your jacket was going to come free from the</p> <p>5 door?</p> <p>6 <b>A. Well, I tried -- I tried to stop the</b></p> <p>7 <b>suspect. So I can't tell it wouldn't make a</b></p> <p>8 <b>difference.</b></p> <p>9 Q. Well, if the car didn't stop after you</p> <p>10 fired, if you had not fired, the jacket still would</p> <p>11 have come free from the door; true?</p> <p>12 MS. BENSON: Objection to form.</p> <p>13 <b>A. I don't know.</b></p> <p>14 BY MR. FREDRICKSON:</p> <p>15 Q. What is your definition of "force" as a law</p> <p>16 enforcement officer?</p> <p>17 <b>A. Force is different categories. Force is</b></p> <p>18 <b>any -- it could be deadly force. It could be force to</b></p> <p>19 <b>get a person under -- subdue a person.</b></p> <p>20 Q. Is that it?</p> <p>21 <b>A. Yeah. I mean . . .</b></p> <p>22 Q. And what does "reasonable force" mean to</p> <p>23 you?</p> <p>24 <b>A. Reasonable force is you got to go one step</b></p> <p>25 <b>above the force the person is using in order to get a</b></p>	<p style="text-align: right;">Page 36</p> <p>1 <b>A. Okay.</b></p> <p>2 Q. So is subjective fear sufficient to justify</p> <p>3 the use of force?</p> <p>4 MS. BENSON: Object to form.</p> <p>5 MR. CUNNINGHAM: Object to the form.</p> <p>6 <b>A. Rephrase it again.</b></p> <p>7 BY MR. FREDRICKSON:</p> <p>8 Q. Okay. Subjective fear would be fear that</p> <p>9 you personally feel but an average person in the exact</p> <p>10 same position would not feel.</p> <p>11 MR. CUNNINGHAM: Object to the form.</p> <p>12 BY MR. FREDRICKSON:</p> <p>13 Q. Does that make sense?</p> <p>14 <b>A. Yeah. Okay.</b></p> <p>15 Q. Okay. So is your subjective fear sufficient</p> <p>16 to justify the use of force?</p> <p>17 MS. BENSON: I'm going to object to form.</p> <p>18 It's a legal conclusion.</p> <p>19 If you can answer.</p> <p>20 <b>A. Yes.</b></p> <p>21 BY MR. FREDRICKSON:</p> <p>22 Q. Your subjective fear is sufficient to</p> <p>23 justify the use of force?</p> <p>24 <b>A. Yeah, if I feel that I'm in danger.</b></p> <p>25 Q. What does "lethal force" mean?</p>

<p style="text-align: right;">Page 37</p> <p>1 <b>A. Lethal force. To kill someone, kill</b></p> <p>2 <b>somebody.</b></p> <p>3 Q. And what does "less lethal force" mean?</p> <p>4 <b>A. Just use minimum force to get a job done.</b></p> <p>5 Q. Are you trained in diffusing techniques?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. What does that mean?</p> <p>8 <b>A. You can verbal -- you can talk a person</b></p> <p>9 <b>down, de-escalate the whole thing if you can.</b></p> <p>10 Q. Are you trained in disengagement and</p> <p>11 tactical repositioning?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And what does that mean?</p> <p>14 <b>A. If you can't get something done or get a</b></p> <p>15 <b>person under control, you call the backup, reposition</b></p> <p>16 <b>yourself until you get help.</b></p> <p>17 Q. What is a fleeing felon?</p> <p>18 <b>A. A fleeing felon is a person who commits a</b></p> <p>19 <b>felony and fleeing.</b></p> <p>20 Q. When can you use deadly force on a fleeing</p> <p>21 felon?</p> <p>22 <b>A. If he possessed a weapon or is a danger to</b></p> <p>23 <b>the public.</b></p> <p>24 Q. Describe what you mean by "a danger to the</p> <p>25 public."</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. What is it used for?</p> <p>2 <b>A. To assist the officers on the -- on the</b></p> <p>3 <b>ground.</b></p> <p>4 Q. How so?</p> <p>5 <b>A. Could be a fleeing -- a fleeing suspect,</b></p> <p>6 <b>barricaded gunman. Just assisting the police in</b></p> <p>7 <b>general.</b></p> <p>8 Q. Were you trained to use cover in the event</p> <p>9 you perceive a possible threat?</p> <p>10 <b>A. Say that again.</b></p> <p>11 Q. Were you trained to use cover in the event</p> <p>12 you perceive a possible threat?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And please describe what "cover" is.</p> <p>15 <b>A. "Cover" mean if you're exposed to danger,</b></p> <p>16 <b>you take cover behind a solid object or . . .</b></p> <p>17 Q. What are some examples of cover?</p> <p>18 <b>A. If you're in a shootout with somebody, you</b></p> <p>19 <b>go behind a car, preferably the front of the car where</b></p> <p>20 <b>the engine is.</b></p> <p>21 Q. An engine is a good form of cover; true?</p> <p>22 <b>A. If that's what -- is the only thing that's</b></p> <p>23 <b>available, yes.</b></p> <p>24 Q. What is concealment?</p> <p>25 <b>A. Same thing.</b></p>
<p style="text-align: right;">Page 38</p> <p>1 <b>A. For example, a person rob a bank and have a</b></p> <p>2 <b>gun, killed some people at the bank and running</b></p> <p>3 <b>towards the bus stop with a gun.</b></p> <p>4 Q. So the danger has to be imminent; right?</p> <p>5 <b>A. Yeah.</b></p> <p>6 Q. Is stealing a car a property crime or a</p> <p>7 violent crime?</p> <p>8 <b>A. It all depends on how it was used.</b></p> <p>9 Q. It depends on what?</p> <p>10 <b>A. How the car was used.</b></p> <p>11 Q. Describe what you mean by that.</p> <p>12 <b>A. I mean, it's a property crime if a person</b></p> <p>13 <b>just steal a car or whatever. But if it use the same</b></p> <p>14 <b>car to inflict harm to another person, it could be</b></p> <p>15 <b>construed differently.</b></p> <p>16 Q. What does the phrase "totality of the</p> <p>17 circumstances" mean in a law enforcement situation?</p> <p>18 <b>A. All the facts put together.</b></p> <p>19 Q. And what does the term "situational</p> <p>20 awareness" mean with regard to a law enforcement</p> <p>21 situation?</p> <p>22 <b>A. The whole -- amount of people, just the</b></p> <p>23 <b>whole situation around the incident.</b></p> <p>24 Q. Does APD have an air support division?</p> <p>25 <b>A. Yes.</b></p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Concealment and cover are the same?</p> <p>2 <b>A. Well, basically.</b></p> <p>3 Q. Are there any differences that you're aware</p> <p>4 of?</p> <p>5 <b>A. No.</b></p> <p>6 Q. If APD officers -- officer injures a</p> <p>7 subject, is the officer required to render medical</p> <p>8 aid?</p> <p>9 <b>A. Yes.</b></p> <p>10 MR. FREDRICKSON: Can we make this</p> <p>11 Exhibit 3, please.</p> <p>12 (Exhibit 3 marked.)</p> <p>13 BY MR. FREDRICKSON:</p> <p>14 Q. Okay. Officer Simmonds, I've handed you</p> <p>15 Exhibit 3. I understand this to be a report of your</p> <p>16 law enforcement training; is that true?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Does it accurately list the training you've</p> <p>19 received during your career with APD?</p> <p>20 <b>A. I would suppose so.</b></p> <p>21 Q. Have you received law enforcement training</p> <p>22 other than what's listed on this report?</p> <p>23 <b>A. No.</b></p> <p>24 Q. When you moved to the EPU, did you receive</p> <p>25 any training specific to that unit?</p>



<p>Page 57</p> <p>1 <b>A. I got shot before. So bullet fragments</b></p> <p>2 <b>was -- is in -- on my chest.</b></p> <p>3 Q. When did that occur?</p> <p>4 <b>A. I think it's 1990.</b></p> <p>5 Q. 1990?</p> <p>6 <b>A. (Nods head.)</b></p> <p>7 Q. Was that in Jamaica?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Was your foot run over before or after your</p> <p>10 jacket was stuck in the vehicle door?</p> <p>11 <b>A. I think it was after.</b></p> <p>12 Q. So that would mean that your foot was run</p> <p>13 over after you fired at the driver of the car.</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Which portion of your jacket was stuck in</p> <p>16 the door?</p> <p>17 <b>A. This section right here.</b></p> <p>18 Q. Your left?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. What happened immediately after your jacket</p> <p>21 freed from the vehicle door?</p> <p>22 <b>A. I get out of the road, sit on the side of</b></p> <p>23 <b>the street because I was in pain, and then called</b></p> <p>24 <b>the -- that's when the lady pulls up.</b></p> <p>25 Q. I'm sorry. That's when what?</p>	<p>Page 59</p> <p>1 off balance from the car.</p> <p>2 <b>A. No.</b></p> <p>3 Q. You fell because your foot hurt and --</p> <p>4 <b>A. Yeah.</b></p> <p>5 Q. Okay. Were you injured at all by the fall</p> <p>6 to the ground?</p> <p>7 <b>A. No.</b></p> <p>8 Q. When your foot was run over, was your shoe</p> <p>9 damaged at all?</p> <p>10 <b>A. No.</b></p> <p>11 Q. And when your -- during this incident in</p> <p>12 which your jacket was stuck in the car door, was your</p> <p>13 jacket damaged at all?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. How so?</p> <p>16 <b>A. When I -- when I tug it from the -- pull it</b></p> <p>17 <b>from the car.</b></p> <p>18 Q. What kind of damage happened to the jacket?</p> <p>19 <b>A. It got a -- it got a tear inside of it.</b></p> <p>20 MR. FREDRICKSON: This will be Exhibit 5.</p> <p>21 (Exhibit 5 marked.)</p> <p>22 MS. BENSON: And, look, before we start this</p> <p>23 questioning on here, I definitely want to just put a</p> <p>24 general objection to the timing of this notice to</p> <p>25 produce -- I assume that's what this is -- in that it</p>
<p>Page 58</p> <p>1 <b>A. The witness -- not the witness. The lady</b></p> <p>2 <b>officer pulled up. So I stand up, start talking to</b></p> <p>3 <b>her, and then I called dispatch.</b></p> <p>4 Q. So when you first saw -- I'm sorry.</p> <p>5 MR. FREDRICKSON: Let's go off the record</p> <p>6 for a second.</p> <p>7 VIDEOGRAPHER: Going off the record at</p> <p>8 11:46 a.m.</p> <p>9 (OFF THE RECORD)</p> <p>10 VIDEOGRAPHER: We're back on the record at</p> <p>11 11:46 a.m.</p> <p>12 BY MR. FREDRICKSON:</p> <p>13 Q. Okay. So I want to make sure I heard that</p> <p>14 last answer. After your jacket freed from the car</p> <p>15 door, you fell to the ground?</p> <p>16 <b>A. Yes. Yes.</b></p> <p>17 Q. And you were on the ground when you first</p> <p>18 saw the investigator who you talked about earlier?</p> <p>19 <b>A. Yeah. I got up, and I spoke with her.</b></p> <p>20 Q. How hard did you fall?</p> <p>21 <b>A. No. It's not -- it's not -- it's not like I</b></p> <p>22 <b>fall. When I released from the -- from the car, got</b></p> <p>23 <b>out of the road and, because I was in so much severe</b></p> <p>24 <b>pain, kind of go down to the ground to heal my foot.</b></p> <p>25 Q. Okay. So you didn't fall because you were</p>	<p>Page 60</p> <p>1 was only served less than a week ago. But I am going</p> <p>2 to let him go ahead and answer any questions.</p> <p>3 BY MR. FREDRICKSON:</p> <p>4 Q. Okay. Mr. Simmonds, this is Exhibit 5.</p> <p>5 Have you seen this document before?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. If you look at Exhibit A, which is</p> <p>8 attached to Exhibit 5, on the last page it asks you to</p> <p>9 produce at this deposition the clothing items that you</p> <p>10 were wearing during this incident on January 15, 2019.</p> <p>11 Do you see that?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. Did you bring those items today?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Why not?</p> <p>16 <b>A. I don't have them.</b></p> <p>17 Q. Did you attempt to locate them?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Why don't you have them?</p> <p>20 <b>A. I don't know where they're at.</b></p> <p>21 Q. What did you do to attempt to locate them?</p> <p>22 <b>A. I searched the closet. I haven't seen them</b></p> <p>23 <b>from that -- from that night.</b></p> <p>24 Q. You haven't seen the suit since the night of</p> <p>25 the shooting on -- in January 2019?</p>



<p style="text-align: right;">Page 61</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And you haven't seen the shoes you were</p> <p>3 wearing since that night?</p> <p>4 <b>A. The -- I didn't -- I didn't look for the</b></p> <p>5 <b>shoes. I didn't -- I didn't -- I didn't search for</b></p> <p>6 <b>the shoes.</b></p> <p>7 Q. Okay. Do you still have the shoes?</p> <p>8 <b>A. I'm not sure.</b></p> <p>9 Q. When was the last time that you can be</p> <p>10 certain of that you did have the shoes?</p> <p>11 <b>A. I can't -- I can't say.</b></p> <p>12 Q. Have you worn the shoes since this incident</p> <p>13 in --</p> <p>14 <b>A. No.</b></p> <p>15 Q. -- 2019?</p> <p>16 Okay. Well, I'll ask that you attempt to</p> <p>17 locate those shoes and not do anything to repair or</p> <p>18 alter them. Okay?</p> <p>19 <b>A. Okay.</b></p> <p>20 Q. As a police officer, you're aware that</p> <p>21 evidence pertaining to an incident that's under</p> <p>22 investigation needs to be carefully preserved; right?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And it's your testimony that you fired at</p> <p>25 the driver of this vehicle because your jacket was</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. Did you take it anywhere that you're aware</p> <p>2 of?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Did you take it to a tailor?</p> <p>5 <b>A. No.</b></p> <p>6 Q. To a cleaner?</p> <p>7 <b>A. No.</b></p> <p>8 Q. When was the last time you saw this suit in</p> <p>9 the corner that you threw it in?</p> <p>10 <b>A. Just that night.</b></p> <p>11 Q. And you never saw it again?</p> <p>12 <b>A. I can't recall.</b></p> <p>13 Q. When you took it off and threw it in a</p> <p>14 corner, this was at your home in McDonough?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Who lives with you there?</p> <p>17 <b>A. My wife.</b></p> <p>18 Q. Do you think that she did anything with the</p> <p>19 suit?</p> <p>20 <b>A. I can't tell.</b></p> <p>21 Q. Did you ask her if she did anything with the</p> <p>22 suit?</p> <p>23 <b>A. I asked her for it. She said she don't</b></p> <p>24 <b>remember seeing it. It's been so long.</b></p> <p>25 Q. Where did you purchase that suit?</p>
<p style="text-align: right;">Page 62</p> <p>1 caught in the door; true?</p> <p>2 <b>A. Yes.</b></p> <p>3 MR. CUNNINGHAM: Object to the form.</p> <p>4 <b>A. Yes.</b></p> <p>5 BY MR. FREDRICKSON:</p> <p>6 Q. So evidence that your jacket was damaged</p> <p>7 during that struggle would be beneficial to your</p> <p>8 defense; right?</p> <p>9 MS. BENSON: Object to form.</p> <p>10 <b>A. I wasn't thinking at the time about -- at</b></p> <p>11 <b>the time about that.</b></p> <p>12 BY MR. FREDRICKSON:</p> <p>13 Q. What did you do with the suit?</p> <p>14 MS. BENSON: Object to --</p> <p>15 <b>A. When I --</b></p> <p>16 MS. BENSON: I'm sorry. Go ahead.</p> <p>17 <b>A. When I got home, I threw it -- I threw it --</b></p> <p>18 <b>because it was damaged, I threw it in a corner.</b></p> <p>19 BY MR. FREDRICKSON:</p> <p>20 Q. You threw it in a corner at your house?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. What did you do with it after that?</p> <p>23 <b>A. I don't know what happened after that.</b></p> <p>24 Q. Did you intentionally throw the suit away?</p> <p>25 <b>A. No.</b></p>	<p style="text-align: right;">Page 64</p> <p>1 <b>A. I can't remember.</b></p> <p>2 Q. Did anyone other than your wife live with</p> <p>3 you at the time?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Who was that?</p> <p>6 <b>A. I've got a son and two stepsons.</b></p> <p>7 Q. So three?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. One son and two stepsons?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Did you ask each of them if they did</p> <p>12 anything with your suit?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And what did they say?</p> <p>15 <b>A. They don't know.</b></p> <p>16 Q. When you fell after your jacket came out of</p> <p>17 the door, which portions of your body hit the ground?</p> <p>18 <b>A. I think my knee.</b></p> <p>19 Q. You said your knee?</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. Which knee?</p> <p>22 <b>A. I think my left knee.</b></p> <p>23 Q. Anything else?</p> <p>24 <b>A. No.</b></p> <p>25 MR. FREDRICKSON: This will be Exhibit 6.</p>

<p>1 (Exhibit 6 marked.)</p> <p>2 BY MR. FREDRICKSON:</p> <p>3 Q. Exhibit 6 is several photos that I believe</p> <p>4 are you immediately after this incident inside the</p> <p>5 ambulance; is that true?</p> <p>6 A. Yes.</p> <p>7 Q. Have you seen these photos before?</p> <p>8 A. No.</p> <p>9 Q. Do you recognize when they were taken?</p> <p>10 A. Yes.</p> <p>11 Q. Who took the photos?</p> <p>12 A. The GBI -- GBI personnel.</p> <p>13 Q. If you look at the fourth image, we can see</p> <p>14 your right foot fairly well. Is there any marking at</p> <p>15 all on your right shoe?</p> <p>16 A. No.</p> <p>17 Q. Would you expect a car tire to leave some</p> <p>18 kind of marking after running over your foot?</p> <p>19 A. Not necessarily.</p> <p>20 Q. Not even a scuff or some dirt?</p> <p>21 A. I mean, it was fast, so not -- not</p> <p>22 necessarily.</p> <p>23 Q. And if you turn back to the first page, does</p> <p>24 the jacket in this photo appear to be damaged in any</p> <p>25 way?</p>	<p>Page 65</p> <p>1 A. Something looked like a gun, a black object.</p> <p>2 Q. Which hand was it in?</p> <p>3 A. I think his right hand.</p> <p>4 Q. What kind of gun was it?</p> <p>5 A. I don't know.</p> <p>6 Q. Was it a handgun?</p> <p>7 A. Yes.</p> <p>8 Q. Where was it at?</p> <p>9 A. I said -- I said like a gun. I'm not sure</p> <p>10 it was a gun. It was something looked like a gun.</p> <p>11 Q. What else might it have been?</p> <p>12 A. I don't know.</p> <p>13 MS. BENSON: Object to form.</p> <p>14 BY MR. FREDRICKSON:</p> <p>15 Q. Where was it pointed?</p> <p>16 A. He reached for it. At that time, the door</p> <p>17 closes and I got stuck in the car.</p> <p>18 Q. So you were never sure whether it was, in</p> <p>19 fact, a gun?</p> <p>20 A. No.</p> <p>21 Q. Is it reasonable to use deadly force because</p> <p>22 someone has an unknown object in their hand?</p> <p>23 MS. BENSON: Object to form.</p> <p>24 A. Say it again.</p> <p>25</p>
<p>Page 66</p> <p>1 A. It's the inside of the jacket.</p> <p>2 Q. There's no damage to the outside of the</p> <p>3 jacket?</p> <p>4 A. No.</p> <p>5 Q. And in any of these photos in Exhibit 6 is</p> <p>6 there any damage or dirt on either of your knees?</p> <p>7 A. No.</p> <p>8 Q. Would you expect there to be some dirt or</p> <p>9 scuff if you fell onto your knee?</p> <p>10 A. No. It's -- it's not -- it wasn't any dirt.</p> <p>11 Q. The street was not dirty?</p> <p>12 A. It's asphalt. I mean . . .</p> <p>13 Q. After the incident, you told someone that</p> <p>14 D'Ettrick had a gun; correct?</p> <p>15 A. Yes.</p> <p>16 Q. Who did you tell that to?</p> <p>17 A. The officer responding.</p> <p>18 Q. Was that true?</p> <p>19 A. When we was struggling inside the car, he</p> <p>20 reached for some -- come up with something looked like</p> <p>21 a gun. So I told the officer I think he got a gun.</p> <p>22 Q. He -- explain that. He reached for</p> <p>23 something like a gun?</p> <p>24 A. Yes.</p> <p>25 Q. Explain to me exactly what you saw.</p>	<p>Page 68</p> <p>1 BY MR. FREDRICKSON:</p> <p>2 Q. Is it reasonable to use deadly force against</p> <p>3 someone who has an unknown object in their hand?</p> <p>4 MR. CUNNINGHAM: I'm going to note an</p> <p>5 objection as well.</p> <p>6 A. It all depends.</p> <p>7 BY MR. FREDRICKSON:</p> <p>8 Q. What does it depend on?</p> <p>9 A. I mean, it all depends on the -- on how the</p> <p>10 person -- his body language and, you know, how -- the</p> <p>11 circumstances of how the incident may happen and</p> <p>12 occur.</p> <p>13 Q. What types of circumstances would justify</p> <p>14 using deadly force against someone with an unknown</p> <p>15 object in their hand?</p> <p>16 MS. BENSON: Object to form.</p> <p>17 A. I've learned of incident, you know, people</p> <p>18 get shot because they got a cell phone. It just</p> <p>19 varies.</p> <p>20 BY MR. FREDRICKSON:</p> <p>21 Q. I'm sorry. What was that last part?</p> <p>22 A. I said it varies. I've seen people get shot</p> <p>23 because they've got a cell phone. They reach for a</p> <p>24 cell phone. I mean, we don't know if you . . .</p> <p>25 Q. When did you see someone get shot because</p>

<p style="text-align: right;">Page 69</p> <p>1 they had a cell phone?</p> <p>2 <b>A. I can't recall.</b></p> <p>3 Q. Was that shooting reasonable, in your</p> <p>4 opinion?</p> <p>5 <b>A. That's what I'm saying. It's all dependent</b></p> <p>6 <b>on the person involved and if the person feel like</b></p> <p>7 <b>their life is in danger at some point.</b></p> <p>8 Q. So D'Ettrick, in fact, did not have a gun</p> <p>9 when he was in your car; correct?</p> <p>10 MR. CUNNINGHAM: Object to the form.</p> <p>11 <b>A. I don't know.</b></p> <p>12 BY MR. FREDRICKSON:</p> <p>13 Q. You don't know?</p> <p>14 <b>A. I don't know.</b></p> <p>15 Q. Have you tried to find out?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Is that something you'd like to know?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. I'm sorry. I didn't catch the answer.</p> <p>20 <b>A. No. Yes. But, I mean, I heard that there</b></p> <p>21 <b>was no gun found.</b></p> <p>22 Q. You heard from who?</p> <p>23 <b>A. I can't -- I can't remember who it was.</b></p> <p>24 Q. Was it someone who was investigating the</p> <p>25 incident?</p>	<p style="text-align: right;">Page 71</p> <p>1 BY MR. FREDRICKSON:</p> <p>2 Q. When the car started to drive away and you</p> <p>3 reached inside, were D'Ettrick's hands on the steering</p> <p>4 wheel?</p> <p>5 <b>A. Yeah, it was on the steering wheel.</b></p> <p>6 Q. Were both hands on the steering wheel?</p> <p>7 <b>A. That, I'm not sure. But hands was on the</b></p> <p>8 <b>wheel.</b></p> <p>9 Q. If his hands were on the wheel, he was not</p> <p>10 holding a gun, though; correct?</p> <p>11 <b>A. No. But technically, I mean, like, he was</b></p> <p>12 <b>pushing me out of the car anyway. So at some point, I</b></p> <p>13 <b>mean, either one or two hands may be on the wheel or</b></p> <p>14 <b>not.</b></p> <p>15 Q. Which hand did he push you with?</p> <p>16 <b>A. I have no idea.</b></p> <p>17 Q. But it's your testimony that he was driving</p> <p>18 the car, pushing you, and reaching for a gun?</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. Wouldn't that require three hands?</p> <p>21 MR. CUNNINGHAM: Object to the --</p> <p>22 MS. BENSON: Object to form.</p> <p>23 MR. CUNNINGHAM: -- form. It's</p> <p>24 argumentative.</p> <p>25 <b>A. No.</b></p>
<p style="text-align: right;">Page 70</p> <p>1 <b>A. I can't remember.</b></p> <p>2 Q. Were there any guns belonging to you in the</p> <p>3 vehicle?</p> <p>4 <b>A. No.</b></p> <p>5 Q. After the shooting and then the crash, when</p> <p>6 you attempted to get into the vehicle, did you ever</p> <p>7 see a gun inside the vehicle?</p> <p>8 <b>A. I did not attempt to go inside the vehicle.</b></p> <p>9 Q. You didn't what?</p> <p>10 <b>A. I didn't attempt to go inside.</b></p> <p>11 Q. Okay. You said you had heard that there was</p> <p>12 no gun; is that right?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Have you heard from anybody that there was a</p> <p>15 gun?</p> <p>16 <b>A. No.</b></p> <p>17 Q. I believe you testified earlier that you</p> <p>18 couldn't tell whether D'Ettrick's hands were on the</p> <p>19 steering wheel when you reached inside the car; is</p> <p>20 that right?</p> <p>21 MR. CUNNINGHAM: Object to the form of the</p> <p>22 question.</p> <p>23 MS. BENSON: Same.</p> <p>24 <b>A. I can't -- say that again.</b></p> <p>25</p>	<p style="text-align: right;">Page 72</p> <p>1 BY MR. FREDRICKSON:</p> <p>2 Q. How was he accomplishing those three things?</p> <p>3 <b>A. I mean, I -- I mean, a person -- everything</b></p> <p>4 <b>wasn't happening at one -- at one point. He wasn't</b></p> <p>5 <b>doing all three things at the same time.</b></p> <p>6 Q. So over the course of how much time did</p> <p>7 those things elapse?</p> <p>8 <b>A. I don't know.</b></p> <p>9 Q. Was it 30 seconds? 5 minutes?</p> <p>10 MS. BENSON: Object to form. Asked and</p> <p>11 answered.</p> <p>12 BY MR. FREDRICKSON:</p> <p>13 Q. Roughly, how long did this struggle --</p> <p>14 <b>A. I don't know.</b></p> <p>15 Q. -- cover?</p> <p>16 Was the car ever traveling at a dangerous</p> <p>17 speed?</p> <p>18 <b>A. It was -- it was -- I'm not -- I'm not sure</b></p> <p>19 <b>what's required a dangerous speed.</b></p> <p>20 Q. Have you received any training on what would</p> <p>21 constitute dangerous driving?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. But you don't know what would be a dangerous</p> <p>24 speed on Whitehall Street?</p> <p>25 <b>A. A car could be going 15 miles per hour and</b></p>

<p style="text-align: right;">Page 73</p> <p>1 <b>kill somebody. I mean, it all depends. Like, I can't</b></p> <p>2 <b>understand that question. I can't answer the</b></p> <p>3 <b>question.</b></p> <p>4 Q. How fast was the car going, roughly?</p> <p>5 <b>A. I don't know.</b></p> <p>6 Q. If the left side of your jacket was stuck in</p> <p>7 the driver's door, you would be facing, then, towards</p> <p>8 the rear of the vehicle; correct?</p> <p>9 <b>A. No. Facing towards the car.</b></p> <p>10 Q. But the car's on your right side; correct?</p> <p>11 <b>A. No. I was -- the car was right here. I'm</b></p> <p>12 <b>right here.</b></p> <p>13 Q. Explain that for me. I'm not sure what you</p> <p>14 mean.</p> <p>15 <b>A. I was stuck in the car. So the car is right</b></p> <p>16 <b>here, and I'm right here. I don't know how to explain</b></p> <p>17 <b>it. It's the left side of my jacket.</b></p> <p>18 Q. So you're facing directly --</p> <p>19 <b>A. To the car.</b></p> <p>20 Q. -- towards the car --</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. -- perpendicular.</p> <p>23 I'm trying to understand if you left -- your</p> <p>24 left lapel is in the driver's side of the door, where</p> <p>25 is the gun in relation to your body when you fire?</p>	<p style="text-align: right;">Page 75</p> <p>1 your jacket is stuck to the car, you're moving with</p> <p>2 it; correct?</p> <p>3 <b>A. Yeah.</b></p> <p>4 Q. So if you're directly facing the car, what</p> <p>5 would the backdrop of the bullet trajectory be?</p> <p>6 <b>A. I don't know.</b></p> <p>7 MR. FREDRICKSON: Let's mark Exhibit 7.</p> <p>8 (Exhibit 7 marked.)</p> <p>9 BY MR. FREDRICKSON:</p> <p>10 Q. Exhibit 7 is a set of photos of the front of</p> <p>11 the vehicle. Have you seen these photos before?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Have you seen the GBI's summary of</p> <p>14 investigation regarding this incident?</p> <p>15 <b>A. No.</b></p> <p>16 Q. There are what I understand to be two bullet</p> <p>17 holes in the windshield in these photos.</p> <p>18 MS. BENSON: Object to --</p> <p>19 MR. CUNNINGHAM: Object to the --</p> <p>20 MS. BENSON: -- form.</p> <p>21 MR. CUNNINGHAM: -- form.</p> <p>22 MR. FREDRICKSON: Okay.</p> <p>23 MS. BENSON: Nothing has indicated that.</p> <p>24 So . . .</p> <p>25 MR. FREDRICKSON: This is going to be</p>
<p style="text-align: right;">Page 74</p> <p>1 <b>A. I fired -- I fired up over my head.</b></p> <p>2 Q. Okay. So you would be firing over your head</p> <p>3 downward towards the driver of the vehicle?</p> <p>4 <b>A. I can't explain to you how it happened. But</b></p> <p>5 <b>I was stuck. I fired. It happened so fast. It was a</b></p> <p>6 <b>stressful situation. I can't tell you exactly how I</b></p> <p>7 <b>fired.</b></p> <p>8 Q. If the left side of your jacket is stuck in</p> <p>9 the driver's door, we can agree, though, that there's</p> <p>10 only several inches between you and the car.</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. In which you fit your gun to fire or reach</p> <p>13 over your head?</p> <p>14 <b>A. I can't tell you that.</b></p> <p>15 Q. And if you are facing directly toward the</p> <p>16 driver's side of the car, when you fired, the</p> <p>17 trajectory of the bullet would be towards the</p> <p>18 passenger side of the car; true?</p> <p>19 MS. BENSON: Object to form.</p> <p>20 <b>A. I said before, the car was moving. So</b></p> <p>21 <b>the -- I've got to be behind a little.</b></p> <p>22 BY MR. FREDRICKSON:</p> <p>23 Q. Behind the car?</p> <p>24 <b>A. Behind the door.</b></p> <p>25 Q. Well, regardless of whether it's moving, if</p>	<p style="text-align: right;">Page 76</p> <p>1 Exhibit 8.</p> <p>2 (Exhibit 8 marked.)</p> <p>3 MR. CUNNINGHAM: Do you mean to give us the</p> <p>4 personnel file?</p> <p>5 MR. FREDRICKSON: Oh, no. I'm sorry.</p> <p>6 That's the wrong document.</p> <p>7 MR. CUNNINGHAM: That's what I figured.</p> <p>8 MR. FREDRICKSON: Thank you, Pearson.</p> <p>9 MR. HARMAN: It's already been marked,</p> <p>10 though. So --</p> <p>11 MR. FREDRICKSON: We can call it Exhibit 8.</p> <p>12 That's fine.</p> <p>13 MR. CUNNINGHAM: All right. So we're</p> <p>14 leaving that as Exhibit 8?</p> <p>15 MR. FREDRICKSON: Yeah.</p> <p>16 MS. BENSON: And this is 9? Okay.</p> <p>17 MR. FREDRICKSON: And this will be 9.</p> <p>18 (Exhibit 9 marked.)</p> <p>19 BY MR. FREDRICKSON:</p> <p>20 Q. I didn't realize this one was not</p> <p>21 consecutively numbered. About halfway through the</p> <p>22 document there's a page that says Exhibit 25 at the</p> <p>23 bottom right corner, and at the bottom left it has the</p> <p>24 number 690580.</p> <p>25 MR. CUNNINGHAM: 58 -- yeah.</p>

<p style="text-align: right;">Page 93</p> <p>1 video file with the time stamp 1930 and 25 seconds a</p> <p>2 person enters the screen in the top right; correct?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Is that the person who got in your vehicle?</p> <p>5 <b>A. I don't know.</b></p> <p>6 Q. Okay. I want to play from this point. And</p> <p>7 can you tell me at which point you grabbed the door of</p> <p>8 the car and attempted to step in?</p> <p>9 (Video played.)</p> <p>10 <b>A. I cannot tell the exact time.</b></p> <p>11 BY MR. FREDRICKSON:</p> <p>12 Q. Okay. On this frame at 1930 and 35 seconds,</p> <p>13 is this you running behind the car?</p> <p>14 <b>A. It appears so.</b></p> <p>15 Q. And at that point, you are not in contact</p> <p>16 with the car; correct?</p> <p>17 <b>A. No.</b></p> <p>18 Q. And you're not holding on to the car?</p> <p>19 <b>A. No.</b></p> <p>20 Q. I'm sorry. It just wasn't clear. At this</p> <p>21 point in the video, at 1930 and 35 seconds, you are</p> <p>22 not holding on to the car.</p> <p>23 <b>A. No.</b></p> <p>24 Q. In fact, you're not in contact with the car</p> <p>25 in any way.</p>	<p style="text-align: right;">Page 95</p> <p>1 <b>A. Yes.</b></p> <p>2 BY MR. FREDRICKSON:</p> <p>3 Q. Okay. I'm going to go a little bit further.</p> <p>4 At 1930 and 39 seconds, is this again you?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And, again, at this point, 1930 and</p> <p>7 39 seconds, you are not in contact with the car in any</p> <p>8 way?</p> <p>9 <b>A. No.</b></p> <p>10 Q. And at this point, 1930 and 39 seconds, are</p> <p>11 you in any danger from the car?</p> <p>12 <b>A. No, not at this -- no.</b></p> <p>13 Q. When in this video did the struggle that you</p> <p>14 described earlier take place?</p> <p>15 <b>A. It -- twice. At the pumps and, I guess,</b></p> <p>16 <b>other frame of the cameras.</b></p> <p>17 Q. Okay. Let me back up. Tell me when to</p> <p>18 pause when you struggled with D'Ettrick at the pumps.</p> <p>19 (Video played.)</p> <p>20 <b>A. It's hard to tell. Sometime around there.</b></p> <p>21 <b>It's hard to tell because --</b></p> <p>22 BY MR. FREDRICKSON:</p> <p>23 Q. What --</p> <p>24 <b>A. -- I don't know when he got inside the car.</b></p> <p>25 <b>I just -- I just can't -- that's -- I just can't tell.</b></p>
<p style="text-align: right;">Page 94</p> <p>1 <b>A. No.</b></p> <p>2 Q. But you are chasing the car; true?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. At this point, you were in no danger from</p> <p>5 the car; right?</p> <p>6 <b>A. No.</b></p> <p>7 Q. No, that's not right?</p> <p>8 <b>A. No.</b></p> <p>9 Q. No, you were not in danger?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. I'm sorry. That's just a bunch of -- it's</p> <p>12 unclear.</p> <p>13 At this point in this video, 1930 and</p> <p>14 35 seconds, are you in any danger from the car?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Thank you.</p> <p>17 If at this point you had simply stopped</p> <p>18 chasing the car, you would have been fine; right?</p> <p>19 MS. BENSON: Object to form.</p> <p>20 <b>A. I was trying to retrieve the car.</b></p> <p>21 BY MR. FREDRICKSON:</p> <p>22 Q. Okay. But if you had not tried to retrieve</p> <p>23 the car and had stopped chasing it at this point, you</p> <p>24 would have been fine.</p> <p>25 MS. BENSON: Same objection.</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Okay. So there was a struggle between you</p> <p>2 and D'Ettrick at the pumps before the car drove off?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And describe that for me.</p> <p>5 <b>A. When I opened the door to get inside the</b></p> <p>6 <b>car, he was -- he was inside the car. So I hold on to</b></p> <p>7 <b>the -- to the door, the steering. That's when he</b></p> <p>8 <b>start pushing me and sped off.</b></p> <p>9 Q. Okay. And then between -- if I understand</p> <p>10 your testimony right, between 19:30:35 and 19:30:39</p> <p>11 here is when the second portion of the struggle</p> <p>12 occurred.</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And what occurred during that time frame?</p> <p>15 <b>A. That's when the door was still open. So I</b></p> <p>16 <b>grabbed on to the door. The door closes. And then</b></p> <p>17 <b>that's -- sometime I fired.</b></p> <p>18 Q. Which portion was your jacket stuck in the</p> <p>19 door?</p> <p>20 <b>A. Left side.</b></p> <p>21 Q. No. At which portion of the video? I'm</p> <p>22 sorry.</p> <p>23 <b>A. I guess other frame of the -- other frame of</b></p> <p>24 <b>the camera.</b></p> <p>25 Q. So between, again, those two points when we</p>



<p style="text-align: right;">Page 97</p> <p>1 can see that you're not in contact with the car -- let  2 me play again -- 1935 -- 19:30:35 -- I'm sorry -- to  3 19:30:39 -- at some point during those four seconds,  4 your jacket was stuck in the car?  5 <b>A. Yes.</b>  6 Q. Was it also during those four seconds that  7 your foot was run over?  8 <b>A. Yes.</b>  9 Q. At which point in the video did you fire the  10 gun?  11 <b>A. I know -- I can't tell you exactly on the</b>  12 <b>video, but when he was making the turn.</b>  13 Q. Okay. Let me play it again.  14 (Off-the-record discussion.)  15 BY MR. FREDRICKSON:  16 Q. Okay. I'll play from 1930 and 24 seconds.  17 Tell me when to pause the video when you fired the  18 gun, please.  19 (Video played.)  20 <b>A. When I get in contact with the -- with the</b>  21 <b>car again, I'm not sure -- I can't tell you exactly</b>  22 <b>when, but it's during that time when he was making</b>  23 <b>that turn.</b>  24 BY MR. FREDRICKSON:  25 Q. Okay. So it's also between 19:30:35 seconds</p>	<p style="text-align: right;">Page 99</p> <p>1 BY MR. FREDRICKSON:  2 Q. When did that occur?  3 <b>A. When I went to get up out of the street,</b>  4 <b>went to the sidewalk.</b>  5 Q. Okay. So sometime after this point?  6 <b>A. Yes. When it was out of the roadway.</b>  7 Q. Well, let me -- to clarify, tell me -- so at  8 1930 and 39 seconds, we can see you walking in the  9 street; true?  10 <b>A. Yes.</b>  11 Q. Okay. Tell me when you fell from this.  12 MS. BENSON: Object to form. Asked and  13 answered.  14 <b>A. Maybe you misunderstood. I didn't fall from</b>  15 <b>the moment of the car. When I get out of the street,</b>  16 <b>I was in so much pain, I fall to my knees because I</b>  17 <b>couldn't -- my -- I was in pain.</b>  18 BY MR. FREDRICKSON:  19 Q. I'm just trying to understand when that  20 occurred in relation to this video.  21 <b>A. When I got out of the street.</b>  22 Q. So after this point in this video?  23 <b>A. Yes.</b>  24 Q. 1930 and 57 seconds?  25 <b>A. Yes.</b></p>
<p style="text-align: right;">Page 98</p> <p>1 and 19:30:39 seconds on this --  2 MS. BENSON: Object to --  3 BY MR. FREDRICKSON:  4 Q. -- video time stamp?  5 <b>A. I guess. Whatever time says.</b>  6 Q. Hang on. So at this point when we can see  7 you running after the car at 1930 and 35 seconds, you  8 had not fired yet?  9 <b>A. No.</b>  10 Q. Okay. Okay. And -- oops. Sorry. Okay.  11 And at this point, 1930 and 39 seconds, you had  12 already fired?  13 <b>A. Yes.</b>  14 Q. Based on this video, wouldn't that mean that  15 you fired while in the Shell parking lot?  16 <b>A. I don't know where the car was. I know it</b>  17 <b>was making a turn -- during the process of making a</b>  18 <b>turn.</b>  19 Q. Does this video show you falling at all?  20 <b>A. No.</b>  21 Q. You testified earlier that you did fall  22 after the car ran over your foot; right?  23 MS. BENSON: Object to form.  24 <b>A. Yes.</b>  25</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Where were the guns on your body, by the  2 way?  3 <b>A. One -- my personal -- my personal -- my</b>  4 <b>issued weapon was in my -- I know was on my side, and</b>  5 <b>the Glock 43 was -- because it was in the car at first</b>  6 <b>when I got out. I go back and retrieve it and put it</b>  7 <b>right here. That's --</b>  8 Q. So it was in your -- the waistband of  9 your --  10 <b>A. Yeah.</b>  11 Q. -- pants?  12 <b>A. Right here.</b>  13 Q. Not in a gun holster?  14 <b>A. No. No. No.</b>  15 Q. Were you wearing a duty belt?  16 <b>A. No.</b>  17 Q. Again, I'll play this video starting from  18 1930 and 30 seconds. At which point did D'Ettrick say  19 something to you?  20 <b>A. I think at the -- at the -- when I was at</b>  21 <b>the pump.</b>  22 Q. While the car was still at the gas pump?  23 <b>A. Yeah.</b>  24 Q. During the first struggle with D'Ettrick at  25 the pump, how long did that last before he drove off?</p>

<p style="text-align: right;">Page 101</p> <p>1 <b>A. I said I can't -- I can't give a specific</b>  2 <b>time frame. It was stressful. Seemed like forever.</b>  3 <b>I can't -- I can't give you a time -- a time stamp on</b>  4 <b>it.</b>  5 Q. Was it a full minute or a few seconds?  6 <b>A. I don't know.</b>  7 Q. So I want to make sure I'm clear. We've  8 established that we can see you not in contact with  9 the car at 1930 and 35 seconds and then again at  10 1930 and 39 seconds; right?  11 <b>A. Yes.</b>  12 Q. And so it's your testimony that during those  13 four seconds you struggled with the driver of the car,  14 the door closed on your suit, your foot was run over,  15 you drew your gun, fired twice, the jacket came free,  16 all in those four seconds?  17 MS. BENSON: So I'm going to object to form  18 as compound as well. And he hasn't testified to the  19 time stamp on the -- on the video.  20 MR. FREDRICKSON: Well, he just did.  21 BY MR. FREDRICKSON:  22 Q. Do -- did you understand the question?  23 <b>A. Yes.</b>  24 Q. Four seconds elapsed between the points at  25 which we can clearly see that you're not in contact</p>	<p style="text-align: right;">Page 103</p> <p>1 those four seconds in which you struggled with  2 D'Ettrick, the door closed on your suit, your foot was  3 run over, you drew your gun and fired twice, and then  4 your suit came free from the door?  5 <b>A. Yes.</b>  6 Q. Okay.  7 MR. FREDRICKSON: Do you want to go off the  8 record for a minute.  9 MR. HARMAN: Off the record just a second.  10 VIDEOGRAPHER: Going off the record at  11 1:36 p.m.  12 (OFF THE RECORD)  13 VIDEOGRAPHER: We are back on the record at  14 1:38 p.m.  15 BY MR. FREDRICKSON:  16 Q. Okay. I want to do this another way just to  17 clarify. If we look at the point in the video in  18 which the time stamp says 1930 and 35 seconds, the  19 video file is at 3 minutes and 39 seconds.  20 Do you see that?  21 <b>A. Yes.</b>  22 Q. Okay. And if we move to the second point at  23 which we can see you, which is at 1930 and 39 seconds,  24 the video file is at 3 minutes and 44 seconds;  25 correct?</p>
<p style="text-align: right;">Page 102</p> <p>1 with the vehicle; right?  2 MS. BENSON: I'm going to object to form to  3 the extent --  4 MR. FREDRICKSON: That's fine.  5 MS. BENSON: -- that you're --  6 MR. FREDRICKSON: Your objection is noted.  7 MS. BENSON: -- asking him to authenticate  8 the time stamp.  9 BY MR. FREDRICKSON:  10 Q. During the four seconds in this video in  11 which we can see that you're not in contact with the  12 car --  13 <b>A. Play the video again.</b>  14 Q. Yeah. Okay. Here we are at 1930 and  15 35 seconds, and we see you running after the car;  16 true?  17 I'm sorry. Can you answer audibly?  18 <b>A. Say that again.</b>  19 Q. At 1930 and 35 seconds we can see that  20 you're not in contact with the car.  21 <b>A. Yes.</b>  22 Q. Okay. And again at 1930 and 39 seconds we  23 can see that you're not in contact with the car.  24 <b>A. Yes.</b>  25 Q. So it's your testimony that it's during</p>	<p style="text-align: right;">Page 104</p> <p>1 <b>A. Yes.</b>  2 Q. Okay. So three or four seconds elapsed  3 during those two points.  4 MR. CUNNINGHAM: Object to the form of the  5 question.  6 MS. BENSON: Same.  7 BY MR. FREDRICKSON:  8 Q. Three seconds elapsed during those two  9 points; true?  10 MR. CUNNINGHAM: Same objection.  11 <b>A. Either three or four. I mean . . .</b>  12 BY MR. FREDRICKSON:  13 Q. Yeah. Which do you think it is?  14 MS. BENSON: Object to form.  15 <b>A. I think it's four.</b>  16 BY MR. FREDRICKSON:  17 Q. You think it's four? I just didn't hear.  18 Did you say you think it's --  19 <b>A. Yes.</b>  20 Q. -- four seconds? Thank you.  21 Do you agree with me that if you fire the  22 gun between these two points that we've discussed,  23 1930 and 35 seconds and 1930 and 39 seconds, the shell  24 casings would not be in the street where they're shown  25 in Exhibit 12?</p>



<p style="text-align: right;">Page 137</p> <p>1 generally as to financial condition, which I don't</p> <p>2 believe is inadmissible, but I'm just putting the</p> <p>3 objection on the record.</p> <p>4 <b>A. -- Bank of America.</b></p> <p>5 BY MR. FREDRICKSON:</p> <p>6 Q. Bank of America.</p> <p>7 What about a savings account?</p> <p>8 <b>A. No. Yeah. No, no saving. I got another</b></p> <p>9 <b>checking with iTHINK Financial Credit Union.</b></p> <p>10 Q. Okay. So you have two checking accounts?</p> <p>11 <b>A. Three.</b></p> <p>12 Q. Three. Where is the third one?</p> <p>13 <b>A. iTHINK Financial.</b></p> <p>14 Q. You have two at --</p> <p>15 <b>A. I gave you Truist, Bank of America, iTHINK</b></p> <p>16 <b>Financial.</b></p> <p>17 Q. Okay. Thank you. One at Truist, one at</p> <p>18 Bank of America --</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. -- and one at Icon Financial?</p> <p>21 <b>A. Yeah. iTHINK Financial.</b></p> <p>22 Q. Okay. No savings account you said?</p> <p>23 <b>A. No.</b></p> <p>24 Q. Do you have a retirement account?</p> <p>25 <b>A. No.</b></p>	<p style="text-align: right;">Page 139</p> <p>1 Q. When you were pumping the gas, which</p> <p>2 direction were you facing?</p> <p>3 <b>A. I can't recall.</b></p> <p>4 Q. You don't know whether you were facing</p> <p>5 towards the front or the rear of the vehicle?</p> <p>6 <b>A. Maybe the rear.</b></p> <p>7 Q. And were you at the gas cap where you were</p> <p>8 fueling the entire time during this -- preceding this</p> <p>9 incident?</p> <p>10 <b>A. I can't remember.</b></p> <p>11 Q. Which side did D'Ettrick get in the vehicle?</p> <p>12 <b>A. I don't know.</b></p> <p>13 Q. You didn't see him get in initially?</p> <p>14 <b>A. No.</b></p> <p>15 MR. FREDRICKSON: Okay. That's all I have.</p> <p>16 MR. CUNNINGHAM: All right. I've got some</p> <p>17 follow-up questions.</p> <p>18 (Off-the-record discussion.)</p> <p>19 EXAMINATION</p> <p>20 BY MR. CUNNINGHAM:</p> <p>21 Q. All right. Good afternoon. This is Pearson</p> <p>22 Cunningham. Officer Simmonds, I've just got some</p> <p>23 follow-up questions.</p> <p>24 Earlier today -- it was early this</p> <p>25 morning -- we were talking about some of your training</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. Do you have any other financial accounts,</p> <p>2 investment account?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Stock trading?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Cryptocurrency?</p> <p>7 <b>A. No.</b></p> <p>8 Q. What is your current rate of pay from APD?</p> <p>9 <b>A. I think it's 72,000 annually.</b></p> <p>10 MR. FREDRICKSON: Let's go off the record</p> <p>11 for a minute.</p> <p>12 VIDEOGRAPHER: Going off the record at</p> <p>13 3:13 p.m.</p> <p>14 (OFF THE RECORD)</p> <p>15 VIDEOGRAPHER: We're back on the record at</p> <p>16 3:16 p.m.</p> <p>17 BY MR. FREDRICKSON:</p> <p>18 Q. Officer Simmonds, on -- in the time around</p> <p>19 this incident on January 15, 2019, when you went to</p> <p>20 this Shell gas station at Whitehall and McDaniel, did</p> <p>21 you ever go inside the gas station?</p> <p>22 <b>A. No.</b></p> <p>23 Q. The gas cap for the vehicle was on the</p> <p>24 passenger side; correct?</p> <p>25 <b>A. Yes.</b></p>	<p style="text-align: right;">Page 140</p> <p>1 as a police officer and some of your employment too,</p> <p>2 and I believe -- did I -- did I hear you correctly</p> <p>3 that you -- did you say that, while you were living in</p> <p>4 Jamaica, you served as a police officer in Jamaica?</p> <p>5 <b>A. Yes, sir.</b></p> <p>6 Q. Prior to serving as a police officer in</p> <p>7 Jamaica, was there a training program that you went</p> <p>8 through to become a police officer in Jamaica?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Once you started -- you know, prior to</p> <p>11 working for APD, did you attend POST, POST training?</p> <p>12 <b>A. Yes, sir.</b></p> <p>13 Q. And then it's my understanding -- correct me</p> <p>14 if I'm wrong -- when we were looking at your POST</p> <p>15 profile, there was POST training, and then is there</p> <p>16 some additional training that APD required of you</p> <p>17 before you got into the patrol capacity?</p> <p>18 <b>A. Yes, sir.</b></p> <p>19 Q. Okay. And then we looked through that -- I</p> <p>20 think it was that exhibit, and there was continuing</p> <p>21 classes you would take on a year-to-year basis; is</p> <p>22 that right?</p> <p>23 <b>A. Yes, sir.</b></p> <p>24 MR. CUNNINGHAM: All right. What exhibit</p> <p>25 are we on?</p>